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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,584	11/18/2003	Ernest L. Johnson	RA-1728	4739
2071	7590	03/13/2006	EXAMINER	
SIEBERTH & PATTY, LLC			FETSUGA, ROBERT M	
4703 BLUEBONNET BLVD			ART UNIT	PAPER NUMBER
BATON ROUGE, LA 70809			3751	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/715,584

Applicant(s)

JOHNSON, ERNEST L.

Examiner

Robert M. Fetsuga

Art Unit

3751

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01/30/06 & 02/01/06.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/30/06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. Claims 1, 2 and 4-13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites nozzle assemblies "configured for spraying liquid onto the hair of the user of the hair washing device in rotating streams". Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. The illustration in Fig. 6 does not teach one how to make a nozzle capable of producing a rotating stream. The general disclosure of a "stationary circular housing 22a" and "rotating disc 22d" (pg. 5) fails to teach one how water supplied from pipe 21 can issue as a rotating stream.

Applicant argues at pages 8-9 of the response filed January 30, 2006 the declaration of George Moran indicates the instant disclosure is enabling with regard to making a rotating nozzle assembly. The examiner can not agree. Initially, it is unclear as to how a mechanical engineer who is "highly experienced in the technical field of engineering fluid mechanics" can represent "one of ordinary skill in the art" as argued. In any event, while the concept of utilizing pressurized liquid flow as a reaction force to rotate a nozzle, per se, may be well known,

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the structure of the claimed rotating nozzle has not been shown to be well known. For example, the claimed rotating nozzle includes a rotating disc. The evidence referred to by Mr. Moran in his declaration does not address this structure beyond noting the presence of angled holes 22b in disc 22d. Instead, a mere statement of opinion is provided by Mr. Moran that the claimed invention is enabled by the corresponding disclosure. Indeed, Mr. Moran states he would understand how to make the invention based upon his knowledge of "testing experience" (par. 6).

However, a patent disclosure should not require a worker in the art to perform tests or to experiment until a working embodiment is discovered. Turning to the declaration itself, it is implied in paragraph "5)" the details of the nozzle assembly were left out of the disclosure in order to render it concise. While the examiner agrees a patent disclosure need not teach routine engineering practice, as argued, the claimed rotating nozzle is being relied upon for patentability in distinguishing prior art (pgs. 9-10 of the response). It would appear there should be disclosure teaching one how to make claimed subject matter that is relied upon to distinguish prior art.

2. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

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3. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

A handwritten signature in black ink, appearing to read 'Robert M. Fetsuga', with a stylized flourish at the end.

Robert M. Fetsuga  
Primary Examiner  
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